



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 4609-99
5 September 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) SECNAVINST 1910.4B

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by changing the RE-4 reenlistment code assigned on 18 February 1986.

2. The Board, consisting of Mr. Dunn, Mr. Adams, and Ms. Humberd, reviewed Petitioner's allegations of error and injustice on 30 August 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 10 January 1986 at age 19. At the time of his enlistment he had completed 12 years of formal education.

d. On 5 February 1986, while Petitioner was still in recruit training, a psychiatric evaluation found that he had a mixed personality disorder. The diagnosis was made due to his suicidal

gesture and desire to get out of the Navy. The evaluation also noted dependence, immaturity, an inability to tolerate stress, and "an inability to cope with the normal requirements of recruit training."

e. On 11 February 1986 the commanding officer directed that Petitioner be separated by reason of personality disorder. On 18 February 1986 Petitioner received an entry level separation by reason of "other physical/mental conditions - personality disorder". At that time he was assigned a reenlistment code of RE-4.

f. With his application, Petitioner submits two psychiatric evaluations which essentially state that he does not have a personality disorder.

g. In an advisory opinion of 11 February 2000, the Specialty Advisor to the Surgeon General for Psychiatry concludes that the evidence of record fails to support the diagnosis of a personality disorder, but it does support a diagnosis of an adjustment disorder. Accordingly, the Specialty Advisor essentially states that the reason for discharge be changed.

h. Reference (b) states that an individual may be separated by reason of best interest of the service if separation is appropriate but no other reason set forth in the reference covers the situation at hand. Individuals separated for this reason may receive a reenlistment code of RE-R1, RE-1, or RE-4.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. The Board concurs with the advisory opinion and concludes that the reason for discharge is inappropriate and should be changed to "best interest of the service", a non-stigmatizing reason for separation which is assigned when no other reason is appropriate. In this regard, the Board believes that had the command been aware that separation by reason of personality disorder was improper, discharge action would have been initiated by reason of entry level performance and conduct given his failure to adjust to recruit training. However, the Board is unwilling to substitute this somewhat stigmatizing reason for separation without affording Petitioner notice and an opportunity to respond. Accordingly, the Board believes the nondescript reason of best interest of the service is now appropriate.

Although Petitioner requested that his reenlistment code be changed, the Board notes that an RE-4 reenlistment code is authorized by regulatory guidance for individuals discharged by reason of best interest of the service. Given his suicidal

gesture and adjustment disorder, the Board concludes that there is no error or injustice in his ree

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show he received an entry level separation by reason of best interest of the service on 18 February 1986, vice by reason of personality disorder.


b. That no further relief be granted.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director